

TARTER KRINSKY & DROGIN LLP
Proposed Attorneys for John N. Moore, Jr.
Debtor and Debtor-in-Possession
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Scott S. Markowitz, Esq.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:	:	
	:	Chapter 11
JOHN N. MOORE, JR.,	:	
	:	Case No.: 18- 78185()
Debtor.	:	
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LOCAL BANKRUPTCY RULE 1007-4 DECLARATION

John N. Moore, Jr. pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury under the laws of the United States of America as follows:

1. I am the debtor herein (the "Debtor") and I submit this declaration pursuant to Rule 1007-4 of the Local Rules of this Court.

2. I intend to file a voluntary Chapter 11 petition with the clerk of this court on December 4, 2018.

3. On July 29, 2014, I caused to be filed with this Court a voluntary chapter 13 bankruptcy petition. The chapter 13 case was subsequently dismissed on November 7, 2014.

4. On January 7, 2015, I filed a voluntary chapter 11 bankruptcy petition with the Clerk of this Court which was assigned to the Honorable Robert E. Grossman, Case No. 15-70055 (REG). By order dated November 17, 2015, Judge Grossman confirmed my chapter 11 plan of the reorganization (the "Plan") which restructured the mortgage loan I have with Eastern

Savings Bank (“Eastern”) secured by the real property I own where I operate a very long standing funeral home in the African-American community on the south shore of Long Island.

5. There has not been a committee of creditors organized prior to the order for relief in this Chapter 11 case. This case is not a small business debtor within the meaning of § 101(51D) of the Bankruptcy Code.

6. I am filing this Chapter 11 case in order to prevent a foreclosure sale currently scheduled for December 5, 2018 with respect to property I own located at 150 Nassau Road, Roosevelt, New York 11575 (the “Property”). I have owned the Property since 2004. I and my siblings inherited the Property upon my mother’s death. John Moore Funeral Home Inc. (the “Funeral Home”) has operated a family-run funeral home at the Property continuously since 1961. The Funeral Home has been an integral part of the African-American community in the south shore of Long Island. The Funeral Home has served over 5,000 families over the years.

7. In or about May 2007, I borrowed \$400,000 from Eastern. The loan was secured by a mortgage on the Property. The original interest rate under the loan was 12.49 percent (12.49%) in the first year and reduced to 11.49 percent (11.49%) through June 1, 2032, as long as no payments were more than thirty (30) days late. The monthly payments under the loan were approximately \$4,350. The monies were utilized to buyout my siblings and to make a loan to my sister’s nursery school which is also in the community. Due to an unforeseen decrease in the funeral home’s revenues, I was unable to make the monthly payments to Eastern commencing in or about 2011. Efforts to reach a consensual restructuring of the loan with Eastern were not successful. In or about March 2012, Eastern commenced an action to foreclose its loan (the “Foreclosure Action”). The Foreclosure Action was settled pursuant to a stipulation, dated February 14, 2013, which required me to make certain lump sum payments and additional

payments over time. Unfortunately, towards the end of 2013, I defaulted and Eastern moved to reopen the Foreclosure Action. By Memorandum of Decision, dated June 6, 2014, the Honorable Arthur D. Spatt, USDJ rejected my defenses and entered a judgment of foreclosure and sale.

8. As set forth above, I initially retained a consumer bankruptcy lawyer and filed a chapter 13 petition which was dismissed shortly after it was filed. I then retained a more experienced bankruptcy counsel and filed a chapter 11 case in January 2015. The Plan was confirmed in November 2015. The Plan provided for a restructuring of Eastern's mortgage loan and set the principal amount at \$725,000.00 and provided the restructured loan would accrue interest at 6.5% per year and be paid based upon a 20-year amortization schedule (the "Restructured Loan"). The monthly payments under the Restructured Loan were approximately \$9,000.00 which included real estate taxes on the Property. The Restructured Loan was set to mature on the 60th month from the effective date of the Plan and provided for a balloon payment of approximately \$620,000.00 if all payments were made.

9. I made all the payments in 2016 and 2017. For several months, I paid Eastern monthly payments of \$10,244.00 per month. Based on these payments, I believe the principal amount of the Restructured Loan has been further reduced. Due to temporary cash flow problems at the Funeral Home, I was unable to timely pay August through November mortgage payments to Eastern. In October, I tendered substantially all of the missed payments to Eastern which Eastern's representative initially agreed to accept. However, a few days later Eastern sent back the payments and advised me they would rather proceed with the foreclosure. A foreclosure sale has been scheduled for December 5, 2018 at the Federal Courthouse in Central Islip.

10. I believe nothing in the Plan prohibits me from re-filing a chapter 11 petition in order to preserve the Property. I am asking the Court to consider that Eastern only lent me

\$400,000.00 and they have been substantially paid back and obtained a significant return on the loan. Despite of all of my payments, Eastern now claims in the notice of sale that I owe approximately \$832,000.00 on account of the Restructured Loan. I believe this is highly inflated and I intend to file an objection to Eastern's claim and move forward with a new plan of reorganization.

11. Attached hereto as **Exhibit 1** is a list of my twenty (20) largest unsecured creditors, excluding insiders.

12. A list of my five (5) largest secured creditors is annexed hereto as **Exhibit 2**.

13. I am filing with my petition a complete set of schedules which sets forth a listing of my assets and liabilities.

14. None of my properties are in the possession or custody of any public officer, receiver, trustee, pledgee, assignee of rents, liquidator, secured creditor, or agent of any such person.

15. I reside at 26 Virginia Avenue, Freeport, New York 11520.

16. My assets consist primarily of my ownership interest in the Property, my residence located at 26 Virginia Avenue, Freeport, NY 11520, and my ownership in the Funeral Home.

17. I am not a party to any litigation other than the Foreclosure Action referenced above which has concluded through entry of a judgment of foreclosure and sale.

18. I am currently employed by the Funeral Home. I receive a monthly salary of \$2,000.00. I expect to have cash disbursements of approximately \$2,000.00 in the next thirty (30) days to pay my ordinary living expenses. My wife is gainfully employed and contributes to our household living expenses.

19. I intend to continue in the operation of my businesses and management of my property pursuant to the provisions of Chapter 11, Title 11 of the United States Code.

Dated: Roosevelt, New York
December 3, 2018

/s/ John N. Moore

John N. Moore, Jr.

EXHIBIT 1

Fill in this information to identify your case:

Debtor 1	<u>John N. Moore, Jr.</u>		
	First Name	Middle Name	Last Name
Debtor 2			
(Spouse if, filing)	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	<u>EASTERN DISTRICT OF NEW YORK</u>		
Case number			
(if known)			

☐ Check if this is an amended filing

B 104

For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders

12/15

If you are an individual filing for bankruptcy under Chapter 11, you must fill out this form. If you are filing under Chapter 7, Chapter 12, or Chapter 13, do not fill out this form. Do not include claims by anyone who is an insider. Insiders include your relatives; any general partners; relatives of any general partners; partnerships of which you are a general partner; corporations of which you are an officer, director, person in control, or owner of 20 percent or more of their voting securities; and any managing agent, including one for a business you operate as a sole proprietor. 11 U.S.C. § 101. Also, do not include claims by secured creditors unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information.

Part 1: List the 20 Unsecured Claims in Order from Largest to Smallest. Do Not Include Claims by Insiders.

Unsecured claim

1	Internal Revenue Service Centralized Insolvency Op P.O. Box 7346 Philadelphia, PA 19101	What is the nature of the claim? Income Taxes and Payroll Taxes Related to Business	\$ \$395,000.00
	Contact Contact phone	As of the date you file, the claim is: Check all that apply <input type="checkbox"/> Contingent <input checked="" type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> None of the above apply Does the creditor have a lien on your property? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Total claim (secured and unsecured) Value of security: \$ Unsecured claim \$	

2	Deans Archer & Co. 265 E Merrick Rd. #205 Valley Stream, NY 11580	What is the nature of the claim? Professional Services	\$ \$40,000.00
	Contact	As of the date you file, the claim is: Check all that apply <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input checked="" type="checkbox"/> None of the above apply Does the creditor have a lien on your property? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Total claim (secured and unsecured) \$	

Debtor 1 John N. Moore, Jr. Case number (if known) _____

Contact phone _____

Value of security:
Unsecured claim- \$ _____
\$ _____**3** What is the nature of the claim? Guarantor of Car Loan \$ \$20,000.00**RBS Citizens, N.A.**
443 Jefferson Boulevard
Warwick, RI 02886

As of the date you file, the claim is: Check all that apply

- ☐ Contingent
☒ Unliquidated
☒ Disputed
☐ None of the above apply

Does the creditor have a lien on your property?

- ☒ No
☐ Yes. Total claim (secured and unsecured) \$ _____
Value of security: - \$ _____
Unsecured claim \$ _____

Contact _____

Contact phone _____

4 What is the nature of the claim? Co-Signer of Car Loan \$ \$8,000.00**Cavalry SPV I, LLC**
500 Summit Lake Drive
Valhalla, NY 10595

As of the date you file, the claim is: Check all that apply

- ☐ Contingent
☒ Unliquidated
☒ Disputed
☐ None of the above apply

Does the creditor have a lien on your property?

- ☒ No
☐ Yes. Total claim (secured and unsecured) \$ _____
Value of security: - \$ _____
Unsecured claim \$ _____

Contact _____

Contact phone _____

5 What is the nature of the claim? Utilities \$ \$5,353.00**PSE&G Long Island**
P.O. Box 9039
Hicksville, NY 11802

As of the date you file, the claim is: Check all that apply

- ☐ Contingent
☐ Unliquidated
☐ Disputed
☒ None of the above apply

Does the creditor have a lien on your property?

- ☒ No
☐ Yes. Total claim (secured and unsecured) \$ _____
Value of security: - \$ _____
Unsecured claim \$ _____

Contact _____

Contact phone _____

6 What is the nature of the claim? Utilities \$ \$700.00**National Grid**
PO BOX 9040
Hicksville, NY 11802

As of the date you file, the claim is: Check all that apply

- ☐ Contingent
☐ Unliquidated
☐ Disputed

Debtor 1 John N. Moore, Jr. Case number (if known) _____☒ None of the above apply

Does the creditor have a lien on your property?

☒ No☐ Yes. Total claim (secured and unsecured) \$ _____

Value of security: - \$ _____

Unsecured claim \$ _____

Contact _____

Contact phone _____

Part 2: Sign Below

Under penalty of perjury, I declare that the information provided in this form is true and correct.

X /s/ John N. Moore, Jr.
John N. Moore, Jr.
Signature of Debtor 1X _____
Signature of Debtor 2Date December 3, 2018

Date _____

EXHIBIT 2**IN THE UNITED STATES BANKRUPTCY COURT
Eastern District of New York**-----X
In re:

Chapter 11

JOHN N. MOORE, JR.,

Case No. 18-78185 ()

Debtor.
-----X**LIST OF CREDITORS HOLDING 5 LARGEST SECURED CLAIMS**

Following is a list of the debtor's creditors holding the 5 largest secured claims. The list is prepared in accordance with Rule 1007-4(a)(vi) of the Local Rules of this court for the filing in this Chapter 11 case.

NAME OF CREDITORS AND COMPLETE MAILING ADDRESS (INCLUDING ZIP CODE)	NAME, TELEPHONE NUMBER AND COMPLETE MAILING ADDRESS (INCLUDING ZIP CODE) OF EMPLOYEE, AGENT, OR DEPARTMENT (IF DIFFERENT FROM MAILING ADDRESS) OF CREDITOR FAMILIAR WITH CLAIM	AMOUNT OF CLAIM	DESCRIPTION AND EST. VALUE OF COLLATERAL SECURING CLAIM
Eastern Savings Bank 11350 McCormack Road Suite 200 Hunt Valley, MD 21031	Eastern Savings Bank 11350 McCormack Road Suite 200 Hunt Valley, MD 21031	\$740,000.00	Mortgage on 150 Nassau Road, Roosevelt, NY, 11575
Ocwen Financial 1661 Worthington Road West Palm Beach, FL 33416	Ocwen Financial 1661 Worthington Road West Palm Beach, FL 33416	\$330,000.00	Mortgage on 26 Virginia Avenue, Freeport, NY 11520

DECLARATION UNDER PENALTY OF PERJURY

I, John N. Moore, Jr., named as debtor in this case, declare under penalty of perjury that I have read the foregoing list of creditors holding the five (5) largest secured claims and that it is true and correct to the best of my information and belief.

Dated: Roosevelt, New York
December 3, 2018

/s/ John N. Moore

John N. Moore, Jr.